

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: James J. Fitzgibbon et al.)
Appln. No.: 09/735,141)
Filed: December 12, 2000)
Title: GARAGE DOOR OPERATOR)
HAVING THUMBPRINT)
IDENTIFICATION SYSTEM)
Group Art)
Unit: 2612)
Examiner: Scott Au)
_____)
Docket No.: 5569/70333)
Customer No.:22242)

Confirmation No. 5535

This Response To Office Action was
electronically filed on Feb 28, 2008
using the USPTO's EFS-Web.

DECLARATION OF JAMES J. FITZGIBBON

Dear Sir or Madam:

I, James J. Fitzgibbon, pursuant to 37 C.F.R. §1.132, declare as follows.

1. I am one of the named inventors in this application and I have been employed by The Chamberlain Group, Inc. ("Chamberlain") since May 1990, and have served in the following capacities with Chamberlain:

| | |
|------------|-------------------------------------|
| 5/30/1990 | Senior Project Engineer |
| 3/1/1996 | Senior Electrical Systems Engineer |
| 12/12/1996 | GDO Electronics Engineering Manager |
| 7/1/1999 | Manager, Advanced Development |
| 1/1/2000 | Director, Advanced Development |
| 11/1/2000 | Director, Intellectual Capital |

2. I have worked in developing and designing security systems for barrier operators and garage door operators for at least 18 years and as a result have become aware of how some features of security devices have been perceived by those who were involved in designing security systems for barrier operators as of 2000 and before. It has been my understanding that in 2000 and prior thereto, finger print data has been regarded as an ultimate method of identification for access to a secured area. Further, I believe a review of a few of the prior art references which have been cited herein provide references which support my understanding.

3. Swonger et al (U.S. Patent No. 4,210,899) ("Swonger"), which involves obtaining access to secured areas using biometric data, states in pertinent part at column 1, lines 23 to 28,

"The ultimate method of personal identification is not a card which can be lost, loaned or stolen, nor a number code which can be told (sic) or purloined; but an unchangeable, non-transferable and indisputably unique characteristic of the person himself, his fingerprint."

4. Plaschko et al (U. S. Patent No. 6,144,293) ("Plaschko") describes a security device to obtain access to a motor vehicle. It describes a problem in the prior art of known transmitters being able by a signal to obtain access to a secured area, but then states at column 1, lines 15-18,

"The major disadvantage of this procedure consists in that the protection of the object to be secured can no longer be guaranteed in the event the transmitter unit being lost or stolen."

Plaschko's solution was a transmitter which characterized the user with finger print data.

5. Scott et al (U. S. Patent No. 6,111,977) ("Scott") describes a hand-held fingerprint recognition and transmission device. In describing his device as part of art involving obtaining access to a secured area using fingerprint identification data, Scott characterized using such data for "high security areas" at column 1, line 61 et seq.:

"Finger print identification systems involve the use of a computer which provide an identification probability for a match of a fingerprint to a prerecorded fingerprint held in a data base. In this manner, finger print recognition devices

have been employed for accessing high security areas but are impractical for use with a conventional home, automobile, computer and so forth." (Emphasis added.)

6. It has been my understanding that finger print identification has been for "high security", and as a result less subject to being violated to permit an unauthorized access to a secured area. In my opinion, what was not understood by persons having ordinary skill in designing secured barriers which can be opened or unlocked wirelessly was that finger print data was very vulnerable to unauthorized code grabbing in a way many fixed codes are.

I, the undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) may jeopardize the validity of the application or any patent issuing thereon, hereby declare that the above statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date:

2/27/08



James J. Fitzgibbon